

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ROBERT HOARD IV,

Petitioner,

Case Number: 09-10604
Honorable David M. Lawson

v.

PAUL KLEE,

Respondent.

ORDER DENYING MOTION FOR CERTIFICATE OF APPEALABILITY

Petitioner Robert Hoard VI filed a *pro se* petition for a writ of habeas corpus alleging that his state drug and firearms convictions were obtained in violation of his constitutional right to be free from unreasonable searches and seizures, to present a defense, to the effective assistance of counsel, and to a fair trial. On March 22, 2012, the Court found that his claims lacked merit and denied the petition. On the same day, the Court entered an order denying a certificate of appealability. Presently, the matter is before the Court on the petitioner's motion for a certificate of appealability.

The Court has denied a certificate of appealability already; therefore, it will treat the petitioner's motion as one for reconsideration of the Court's March 22, 2012 order denying certificate of appealability. A motion for reconsideration may be granted pursuant to E.D. Mich. LR 7.1(h)(1) when the moving party shows (1) a "palpable defect," (2) that misled the court and the parties, and (3) that correcting the defect will result in a different disposition of the case. E.D. Mich. LR 7.1(h)(3). A "palpable defect" is a defect which is obvious, clear, unmistakable, manifest, or plain. *Mich. Dep't of Treasury v. Michalec*, 181 F. Supp. 2d 731, 734 (E.D. Mich. 2002) (citations omitted).

The defendant has not presented any evidence of a palpable defect that misled the Court. Instead, the defendant's motion merely revisits issues already decided by the Court. Therefore, the Court will deny the defendant's motion for reconsideration. If the petitioner wishes to pursue his appeal, he "may seek a certificate from the court of appeals under Federal Rule of Appellate Procedure 22." Rule 11(a), Rules Governing Section 2254 Cases in the United States District Courts.

Accordingly, it is **ORDERED** that the petitioner's motion for certificate of appealability [dkt. #20] is **DENIED**.

s/David M. Lawson
DAVID M. LAWSON
United States District Judge

Dated: April 30, 2012

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on April 30, 2012.

s/Deborah R. Tofil
DEBORAH R. TOFIL